

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 06-14303

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT MAY 15, 2007 THOMAS K. KAHN CLERK

D.C. Docket No. 05-00176-CV-WDO-5

STEVE CANNON, DAWN CANNON, In their
official capacity as Administrators of the Estate of
Josh Cannon,

Plaintiffs-Appellants,

versus

JOHN CAREY BITTICK, MATTHEW PRICE,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Georgia

(May 15, 2007)

Before DUBINA and BLACK, Circuit Judges, and LIMBAUGH,* District Judge.

PER CURIAM:

*Honorable Stephen N. Limbaugh, United States District Judge for the Eastern District of Missouri, sitting by designation.

Steve and Dawn Cannon, as surviving parents of Josh Cannon, and as executors of Josh's estate brought suit against Monroe County, Georgia Sheriff John Carey Bittick and Deputy Sheriff Matthew Price, alleging a Fourth Amendment violation by the use of excessive force which resulted in Josh's death while he was in the custody of the Sheriff. This is an appeal from the district court's grant of summary judgment in favor of the Sheriff and his deputy.

The issues presented on appeal are (1) whether the district court erred in finding Price's actions were "objectively reasonable" under the circumstances and no Fourth Amendment violation occurred; and (2) whether the district court erred in finding that since Price did not commit a constitutional violation, there was no viable § 1983 claim against Sheriff Bittick for failure to train.

We review the district court's grant of summary judgment *de novo*, applying the same legal standards as the district court. *McCormick v. City of Fort Lauderdale*, 333 F.3d 1234, 1242-43 (11th Cir. 2003). Summary judgment is appropriate if the evidence establishes "no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(c); *McCormick*, 333 F.3d at 1243. The evidence, and all reasonable inferences, must be viewed in the light most favorable to the non-movants, here Steve and Dawn Cannon. *McCormick*, 333 F.3d at 1243.

This is a most unfortunate and tragic case, yet after reviewing the record, reading the parties' briefs and having the benefit of oral argument, we conclude that there is no merit to any of the arguments made by the Cannons in this appeal. Accordingly, we affirm the district court's grant of summary judgment on all of Cannons' claims.

AFFIRMED.